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a child suffering from spina bifida who is a child of a Vietnam veteran is awarded or increased pursuant to a liberalizing law, or a liberalizing VA issue approved by the Secretary or by the Secretary's direction, the effective date of such award or increase shall be fixed in accordance with the facts found, but shall not be earlier than the effective date of the act or administrative issue. Where pension, compensation, dependency and indemnity compensation, or the monetary allowance under 38 U.S.C. 1805 for a child suffering from spina bifida who is a child of a Vietnam veteran is awarded or increased pursuant to a liberalizing law or VA issue which became effective on or after the date of its enactment or issuance, in order for a claimant to be eligible for a retroactive payment under the provisions of this paragraph the evidence must show that the claimant met all eligibility criteria for the liberalized benefit on the effective date of the liberalizing law or VA issue and that such eligibility existed continuously from that date to the date of claim or administrative determination of entitlement. The provisions of this paragraph are applicable to original and reopened claims as well as claims for increase.

(1) If a claim is reviewed on the initiative of VA within 1 year from the effective date of the law or VA issue, or at the request of a claimant received within 1 year from that date, benefits may be authorized from the effective date of the law or VA issue.

(2) If a claim is reviewed on the initiative of VA more than 1 year after the effective date of the law or VA issue, benefits may be authorized for a period of 1 year prior to the date of administrative determination of entitlement.

(3) If a claim is reviewed at the request of the claimant more than 1 year after the effective date of the law or VA issue, benefits may be authorized for a period of 1 year prior to the date of receipt of such request.

(Authority: 38 U.S.C. 1806, 5110(g))

(b) *Discontinuance of benefits.* Where the reduction or discontinuance of an award is in order because of a change in law or a Department of Veterans Af-

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fairs issue, or because of a change in interpretation of a law or Department of Veterans Affairs issue, the payee will be notified at his or her latest address of record of the contemplated action and furnished detailed reasons therefor, and will be given 60 days for the presentation of additional evidence. If additional evidence is not received within that period, the award will be reduced or discontinued effective the last day of the month in which the 60-day period expired.

(Authority: 38 U.S.C. 5112(b)(6))

[27 FR 11886, Dec. 1, 1962, as amended at 55 FR 13529, Apr. 11, 1990; 62 FR 17706, Apr. 11, 1997; 65 FR 35282, June 2, 2000]

§3.115 Access to financial records.

(a) The Secretary of Veterans Affairs may request from a financial institution the names and addresses of its customers. Each such request, however, shall include a certification that the information is necessary for the proper administration of benefits programs under the laws administered by the Secretary, and cannot be obtained by a reasonable search of records and information of the Department of Veterans Affairs.

(b) Information received pursuant to a request referred to in paragraph (a) of this section shall not be used for any purpose other than the administration of benefits programs under the laws administered by the Secretary if the disclosure of that information would otherwise be prohibited by any provision of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3401 through 3422).

(Authority: 38 U.S.C. 5319)

[58 FR 32445, June 10, 1993]

CLAIMS

§3.150 Forms to be furnished.

(a) Upon request made in person or in writing by any person applying for benefits under the laws administered by the Department of Veterans Affairs, the appropriate application form will be furnished.

(Authority: 38 U.S.C. 5102)

(b) Upon receipt of notice of death of a veteran, the appropriate application form will be forwarded for execution by

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or on behalf of any dependent who has apparent entitlement to pension, compensation, or dependency and indemnity compensation. If it is not indicated that any person would be entitled to such benefits, but there is payable an accrued benefit not paid during the veteran's lifetime, the appropriate application form will be forwarded to the preferred dependent. Notice of the time limit will be included in letters forwarding applications for benefits.

(c) When disability or death is due to Department of Veterans Affairs hospital treatment, training, medical or surgical treatment, or examination, a specific application for benefits will not be initiated.

[26 FR 1570, Feb. 14, 1961, as amended at 30 FR 133, Jan. 7, 1965]

CROSS REFERENCE: Extension of time limit. See § 3.109(b).

§ 3.151 Claims for disability benefits.

(a) *General.* A specific claim in the form prescribed by the Secretary must be filed in order for benefits to be paid to any individual under the laws administered by VA. (38 U.S.C. 5101(a)). A claim by a veteran for compensation may be considered to be a claim for pension; and a claim by a veteran for pension may be considered to be a claim for compensation. The greater benefit will be awarded, unless the claimant specifically elects the lesser benefit.

(b) *Retroactive disability pension claims.* Where disability pension entitlement is established based on a claim received by VA on or after October 1, 1984, the pension award may not be effective prior to the date of receipt of the pension claim unless the veteran specifically claims entitlement to retroactive benefits. The claim for retroactivity may be filed separately or included in the claim for disability pension, but it must be received by VA within one year from the date on which the veteran became permanently and totally disabled. Additional requirements for entitlement to a retroactive pension award are contained in § 3.400(b) of this part.

(Authority: 38 U.S.C. 5110(b)(3))

[50 FR 25981, June 24, 1985]

CROSS REFERENCE: Informal claims. See § 3.155(b).

§ 3.152 Claims for death benefits.

(a) A specific claim in the form prescribed by the Secretary (or jointly with the Secretary of Health and Human Services, as prescribed by § 3.153) must be filed in order for death benefits to be paid to any individual under the laws administered by VA. (See § 3.400(c) concerning effective dates of awards.)

(Authority: 38 U.S.C. 5101(a))

(b)(1) A claim by a surviving spouse or child for compensation or dependency and indemnity compensation will also be considered to be a claim for death pension and accrued benefits, and a claim by a surviving spouse or child for death pension will be considered to be a claim for death compensation or dependency and indemnity compensation and accrued benefits.

(Authority: 38 U.S.C. 5101(b)(1))

(2) A claim by a parent for compensation or dependency and indemnity compensation will also be considered to be a claim for accrued benefits.

(Authority: 38 U.S.C. 5101(b)(2))

(c)(1) Where a child's entitlement to dependency and indemnity compensation arises by reason of termination of a surviving spouse's right to dependency and indemnity compensation or by reason of attaining the age of 18 years, a claim will be required. (38 U.S.C. 5110(e).) (See paragraph (c)(4) of this section.) Where the award to the surviving spouse is terminated by reason of her or his death, a claim for the child will be considered a claim for any accrued benefits which may be payable.

(2) A claim filed by a surviving spouse who does not have entitlement will be accepted as a claim for a child or children in her or his custody named in the claim.

(3) Where a claim of a surviving spouse is disallowed for any reason whatsoever and where evidence requested in order to determine entitlement from a child or children named in the surviving spouse's claim is submitted within 1 year from the date of